

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Boating and Ocean Recreation  
Honolulu, Hawaii

February 12, 2016

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, HI

Administrative Enforcement Action Against Mr. Joe R. Waldvogel for  
Engaging in Illegal Commercial Operation on  
Hanalei Bay Ocean Waters and Lands Adjacent Thereto

**Summary:** This submittal requests that the Board find Mr. Waldvogel in violation of Hawaii Administrative Rules (HAR) § 13-256-39: Business or commercial activity within Hanalei Bay Ocean Waters and lands adjacent thereto, without prior approval of the department, and recommends that the Board assess an administrative fine of five thousand dollars (\$5,000.00) pursuant to Hawaii Revised Statutes (HRS) § 200-14.5.

**Date of Incident:** May 6, 2015

**Against:** Mr. Joe R. Waldvogel  
P.O. Box 339  
Anahola, HI 96703

**Location of Incident(s):** Hanalei River, Kauai

**I. INTRODUCTION:**

Mr. Waldvogel's illegal commercial activity in and around Hanalei Bay ocean waters has been observed by Division of Boating and Ocean Recreation (DOBOR) staff and other permitted commercial operators on several occasions. Mr. Waldvogel was notified several times that his commercial activities required a permit for the area, he therefore had full knowledge of the existing permit requirements before being cited for violation of DOBOR rules. As exemplified below, Mr. Waldvogel repeatedly conducted illegal commercial activity despite being on notice of existing permitting regulations in the area and being verbally told that he is required to obtain a permit in order to conduct commercial operations in Hanalei Bay. Based on the analysis below, DOBOR staff recommends that an administrative fine of five thousand dollars (\$5,000.00) be levied against Mr. Waldvogel.

## **II. FACTUAL BACKGROUND**

Mr. Waldvogel was positively identified as the violator by his social security number and passport by Division of Conservation and Resources Enforcement (DOCARE) staff, and witness statements as well as photographic evidence was obtained of his unlawful activity and is contained in the DOCARE citation report attached hereto as Exhibit "A."

The following timeline is presented to summarize the incident that took place on May 6, 2015 pertaining to the alleged violation of HAR § 13-256-39 by Mr. Waldvogel as well as subsequent events in which Mr. Waldvogel was witnessed illegally conducting commercial operations without a permit.

### **May 6, 2015:**

Mr. Waldvogel was conducting commercial vessel operations under the name "Bali Hai Tours", vessel HA 1783 CP ("Kokua Kai"), without a valid commercial use permit issued by the department and was cited by DOCARE, Kauai Branch.

### **May 14, 2015:**

DOCARE, Kauai Branch received complaints from the permitted commercial vessel operators regarding the alleged unpermitted tours operating in Hanalei Bay, Kauai, and witnessed Mr. Waldvogel operating a commercial vessel under the name of "Bali Hai Tours", vessel HA 1783 CP ("Kokua Kai"), without a valid commercial use permit issued by the department.

### **May 15, 2015:**

DOCARE, Kauai Branch witnessed Mr. Waldvogel operating a commercial vessel under the name of "Bali Hai Tours", vessel HA 1783 CP ("Kokua Kai"), without a valid commercial use permit issued by the department.

### **July 29, 2015:**

DOCARE, Kauai Branch witnessed Mr. Waldvogel operating a commercial vessel under the name of "Bali Hai Tours", vessel HA 1783 CP ("Kokua Kai"), without a valid commercial use permit issued by the department.

## **III. REGULATORY AUTHORITY FOR ENFORCEMENT**

### **A. Applicable Hawaii Administrative Rules**

#### **1. Rule Violated:**

HAR § 13-256-39(b)(5) prohibits unpermitted commercial activity: No commercial vessel shall load or unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto without a permit issued by the department and approval by the County of Kauai. All vessels authorized to load and unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto shall travel to and from the beach only through a designated ingress/egress zone

## **2. Relevant Definitions:**

HAR § 13-230-8 defines “Business” as: “all professions, trades, occupations, and callings carried on for a profit or livelihood, every kind of commercial enterprise, and the operation of games, machines, or mechanical devices.”

HAR § 13-230-8 defines “Commercial activity” as “the use of or activity for which compensation is received by any person for goods or services or both rendered to customers or participants in that use or activity. Display of merchandise or demanding or requesting gifts, money, or services, shall be considered a commercial activity.”

HAR § 13-230-8 “Vessel carrying passengers for hire” means any vessel which is used for the carriage of any person or persons for a valuable consideration whether directly or indirectly flowing to the owner, charterer, operator, agent, or any person who has a lien on the vessel.

### **B. Administrative fines authorized for violations of HAR § 13-256-39**

HAR § 13-230-4(b) provides that “the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney’s fees and costs, or bring legal action to recover administration fines, fees and costs, including attorney’s fees and costs, or payment for damages or for the cost to correct damages resulting from violation of subtitle 8 of title 12 or any rule adopted thereunder in accordance with section 200-14.5, Hawaii Revised Statutes. Each day or instance of violation shall constitute a separate offense.”

HRS § 200-14.5(a) General administrative penalties, also affirms the Board’s discretion to levy administrative fines: “Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney’s fees and costs, or bring legal action to recover administrative fines and fees and costs, including attorney’s fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of subtitle 8 of title 12 or any rule adopted thereunder. Each day or instance of violation shall constitute a separate offense.”

HRS § 200-14.5(c) sets the fine limits for all violations not involving pollution of the waters of the State as follows:

- (1) For a first violation or a violation beyond five years of a previous violation, a fine of not more than \$5,000;
- (2) For a second violation within five years of a previous violation, by a fine of not more than \$10,000; and
- (3) For a third or subsequent violation within five years of the last violation, by a fine of not more than \$15,000.

#### **IV. APPLICATION OF LAW AND RECOMMENDED FINE**

##### **A. Mr. Waldvogel's actions fall under HAR definitions and are therefore subject to administrative action.**

Based on the definitions in DOBOR administrative rules, Mr. Waldvogel was clearly engaged in "commercial activity" when loading and unloading passengers in Hanalei Bay. Additionally, witness statements taken by DOCARE in Exhibit "A" further establish that Mr. Waldvogel was unlawfully operating a vessel in a commercial capacity and acknowledge that Mr. Waldvogel was paid for the service of providing a tour, which clearly falls within the regulatory definitions of "business", "commercial activity", and "vessel carrying passengers for hire" as described above.

##### **B. Mr. Waldvogel did not comply with HAR requirements and restrictions.**

Mr. Waldvogel did not receive prior written approval from the department nor did he execute an agreement with the department to operate commercially within Hanalei Bay waters. Mr. Waldvogel was witnessed by DOCARE staff unloading passengers without a valid commercial use permit in Hanalei Bay on multiple occasions and therefore violated HAR § 13-256-39.

##### **C. Criminal action against Mr. Waldvogel for violation of HAR § 13-256-39 does not preclude administrative action.**

Mr. Waldvogel is being tried in a criminal suit concurrently with this administrative action. HRS § 200-14.5(d) states that "Any criminal action against a person for any violation of subtitle 8 of title 12 or any rule adopted thereunder shall not preclude the State from pursuing civil legal action to recover administrative fines, fees and costs, or damages against that person. Any civil legal action to recover administrative fines, fees and costs, or damages for any violation of subtitle 8 of title 12 or any rule adopted thereunder shall not preclude the State from pursuing any appropriate criminal action against that person. All fines, fees and costs, or damages recovered by the department under this section shall be deposited in the boating special fund."

##### **D. Maximum fine authorized by Statute**

Pursuant to HAR § 13-230-4(b), "[e]ach day or instance of violation shall constitute a separate offense." As evidenced by the attached DOCARE report, Mr. Waldvogel was observed on multiple occasions over an extended period of time conducting unauthorized commercial activity in violation of HAR § 13-256-39. The maximum fine for Mr. Waldvogel's violations, as authorized by HRS § 200-14.5(c), could therefore be in excess of \$15,000.00. However, as only one citation was issued, DOBOR staff recommends that only the maximum fine for a single violation as set by HRS § 200-14.5(c) be levied at this time.

There are no mitigating factors that DOBOR staff believes would justify a lesser fine than the maximum fine for a single violation. In this instance, Mr. Waldvogel had full notice of the applicable regulations and chose to violate them on multiple occasions even after he was initially cited for unpermitted commercial activity. DOBOR staff believes that unless there are

consequences for violating HRS and HAR provisions, people do not have an incentive to abide by the rules and directions of Harbor Staff. In order to send a strong message and curb present and future violations of the rules, the recommendation from DOBOR staff is to issue a five thousand dollar (\$5,000.00) penalty to Mr. Waldvogel.

**V. RECOMMENDATIONS**

DOBOR respectfully requests that the board:

1. Find that Mr. Joe R. Waldvogel committed an administrative violation of HAR § 13-256-39.
2. Issue a five thousand dollar (\$5,000.00) fine, in accordance with HRS § 200-14.5(c)(1), to Mr. Joe R. Waldvogel for violation of HAR § 13-256-39.

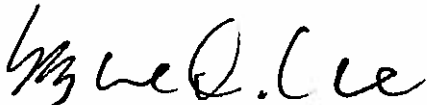
Respectfully submitted,



Edward R. Underwood  
Administrator

Attachment: Exhibit A – Citation dated 5/6/2015

APPROVED FOR SUBMITTAL



Suzanne D. Case  
Chairperson

**State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement**

INVESTIGATION # 15-0238-KA	District East District	Lead Investigator Rushforth, Robert	Report Status In Progress	Key Report <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Date/Time Reported 05/06/2015 08:00AM	Location Hanalei Bay	Classification Commercial Use Permit	Connecting Reports	

## Investigation Report

<b>BASIC</b>	1. CLASSIFICATION Commercial Use Permit						2. SOURCE Phone		
	3. COMPLAINANT'S NAME Anonymous			4. SEX	5. RACE	6. AGE	7. BIRTH DATE	8. OCCUPATION	
	9. ADDRESS			10. PLACE EMPLOYED/SCHOOL ATTENDING		11. HOME	12. WORK	13. CELL	
	14. LOCATION OF INCIDENT/INTERSECTING STREET Hanalei Bay and Hanalei River. Offloading at 4943 Weke Road owned by Patricia					15. DATE/TIME OCCURRED		16. DATE/TIME REPORTED 05/06/2015 08:00AM	
<b>VEHICLES</b>	17. TYPE	18. YEAR	19. MAKE	20. MODEL	21. COLOR	22. LICENSE / HA No.	23. LENGTH	24. STOLEN	
	25. REGISTERED OWNER		26. ADDRESS			27. HOME	28. WORK	29. CELL	
	30. NOTES								
	31. TYPE	32. YEAR	33. MAKE	34. MODEL	35. COLOR	36. LICENSE / HA No.	37. LENGTH	38. STOLEN	
<b>PEOPLE</b>	39. REGISTERED OWNER		40. ADDRESS			41. HOME	42. WORK	43. CELL	
	44. NOTES								
	45. NAME Joe Waldvogel			46. SEX Male	47. RACE	48. AGE 56	49. BIRTH DATE 08/04/1958	50. OCCUPATION	
	51. CATEGORY Suspect		52. ADDRESS P.O. Box 339, Anahola, HI, 96703				53. HOME	54. WORK	55. CELL
<b>SYNOPSIS</b>	56. NAME			57. SEX	58. RACE	59. AGE	60. BIRTH DATE	61. OCCUPATION	
	62. CATEGORY		63. ADDRESS				64. HOME	65. WORK	66. CELL
	67. NAME			68. SEX	69. RACE	70. AGE	71. BIRTH DATE	72. OCCUPATION	
	73. CATEGORY		74. ADDRESS				75. HOME	76. WORK	77. CELL
<b>WRITER</b>	78. SYNOPSIS Commercial operator running a "six pac" out of Hanalei River & Hanalei Bay to take passengers on a tour along the coast line toward the Na Pali coast without a permit.  continued...rsr								
	79. REPORT WRITTEN BY Rushforth, Robert		80. BADGE No. 83	81. DATE/TIME WRITTEN 05/21/2015 02:31PM		82. SUPERVISOR APPROVING Addington, Kalani		83. DATE/TIME APPROVED 9/4/15/1100	84. BADGE No. 18
85. DISPOSITION									

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 15-0238-1KA	DISTRICT East District	LEAD INVESTIGATOR Robert Rushforth	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 5/6/2015 8:00:00 AM	LOCATION Hanalei Bay	CLASSIFICATION Commercial Use Permit	CONNECTING REPORT(S)

Report Type: ☐ Continuation of Report ☐ Supplemental ☐ Follow Up  
 Date/Time Written:  
 Written By: Rushforth, Robert

## Report

**ASSIGNMENT/ARRIVAL:** I am a Conservation and Resources Enforcement Officer with the State of Hawaii's, Department of Land and Natural Resources (DLNR), Division of Conservation and Resources Enforcement (DOCARE). I was assigned by my field supervisor to work the Hanalei Bay area regarding complaints about commercial vessel activity without a permit. I arrived on scene on May 6, 2014 at about 0930 hours. On this date the subject operating under the name "Bali Hai Tours" was cited by another officer. Reports came in that he was still operating. I arrived again on May 14, 2015 at about 0830 hours to meet with the operator and passengers.

**INITIAL OBSERVATIONS:** On May 14, 2015 at about 1137 hours I observed, using 10x50 binoculars, a vessel looking exactly like the vessel Kokua Kai (HA-1738-CP) operated by Joe Roby WALDVOGAL under the business name Bali Hai Tours entering Hanalei Bay. I recognize the vessel because it was the same one Officer INGRAM cited on May 6, 2015 for illegal commercial activities; entering Hanalei Bay. At about 1147 hours the vessel entered the mouth of the Hanalei River and confirmed to be the power vessel "Kokua Kai". On board the vessel was J. R. WALDVOGAL at the helm, the same crew member he used before and six passengers.

**SCENE:** Hanalei Bay, Hanalei River, unencumbered state land and the private property owned by Patricia W. SHEEHAN Trust, TMK# 550010020000. See attachment #1 and #2 showing aerial views of the area.

**VIOLATION:** 13-256-3 Commercial operator permit requirements. That section reads in part "(a) All operators of commercial vessels, water craft or water sports equipment shall apply for a commercial operator permit to be issued by the department." I am uncomfortable using this section because it only requires an operator to apply for a permit and Mr. J. R. WALDVOGAL did apply for a permit according to Joe BORDEN, the Kauai district boating manager.

Section 13-256-39 (b) (5) Hanalei Bay ocean waters, general restrictions reads "No commercial vessel shall load or unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto without a permit issued by the department and approval by the County of Kauai. All vessels authorized to load and unload passengers in Hanalei Bay ocean waters or the land adjacent thereto shall travel to and from the beach only through a designated ingress/egress zone." The vessel "Kokua Kai" has been observed, by this officer, loading and unloading passengers from adjacent lands and continued to do so after being cited.

### INVESTIGATION:

May 6, 2015:

I joined by other DOCARE officers to investigate illegal commercial vessel activity at Hanalei Bay. At about 1145 hours, using 10x50 binoculars, I observed a vessel meeting the description of a suspect vessel in the bay coming from the ocean. It came from the Na Pali Coast side of the bay. When it came closer I was able to confirm it was the vessel "Kokua Kai." There were eight people on board. The operator later identified as J. R. WALDVOGAL, one crew member later identified as Matthew MARCUS, and six passengers. The vessel pulled up to a dock affixed to unencumbered state land adjacent to property owned by Patricia W. SHEEHAN Trust. The operator and crew member exited the vessel into the water and manually maneuvered the vessel to the dock where it tied up and six passengers offloaded. DOCARE officer O. INGRAM approached the operator and the other officers interviewed the passengers and crew member. The officers interviewing the passengers were able to get statements that they had paid to take a tour of the Na Pali Coast on board the vessel "Kokua Kai." Officer O. INGRAM cited J. R. WALDVOGAL under the section 13-256-3 Commercial operator permit requirements. A passenger told officer DONOHUE that he paid \$169.00 a head for the tour.

Rushforth, Robert  
Officer

83  
Badge No.

SEPT 2, 2015 / 1010 HRS  
Date / Time

*[Handwritten signature]*

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 15-0230-KA	DISTRICT East District	LEAD INVESTIGATOR Robert Rushforth	KEY REPORT <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
DATE / TIME REPORTED 5/6/2015 8:00:00 AM	LOCATION Hanalei Bay	CLASSIFICATION Commercial Use Permit	CONNECTING REPORT(S)

## Report (Continued)

### May 09, 2015:

An article in The Garden Island newspaper, written by Brittany Lyto, quoted Joe LICONA also known as Joe WALDVOGAL, as follows: "My tourists gave as little information as possible, got out of the boat, went to their cars and left without ever paying their bill for their tour." The article goes on saying that he charges \$130.00-a-head. "So basically I'm out of business because now the vendors who book the tours for 30 percent won't book me anymore because they went to the tour desk and complained about their tour." He also admits in the article that he knows he needs a permit and does not have one. A copy of the entire article is attached. (see Attachment #3).

### May 14, 2015:

Reports were coming in that the vessel "Kokua Ka" was still operating in violation of our rules. I, Officers DONOHUE, TANAKA, and FERNANDEZ responded to the complaint. I observed the vessel in the Hanalei Bay coming in from the ocean at around 11:33 hours. At around 1145 hours it entered the Hanalei River and tied up to the dock at around 1148 hours. After the passengers offloaded I approached the operator of the vessel who identified himself with his Transportation Worker Identification Card (TWIC) and his U.S. Merchant Mariner Credential as follows.

Name: Joe Roby WALDVOGAL  
Address: P.O. Box 339  
Anahola, HI 96703  
DOB: Aug 4, 1958

The six passengers were identified by officers TANAKA and FERNANDEZ as follows:

Name: Mr. Robin SNOW and Ms. Charmaine WHELAN  
Ph#: 780-742-5506  
Address: 105 Laffont Pl.  
T9KZ91 Fort McMurray, Alberta Canada

Name: Tim LAUSCHER and Holly LYND  
Address: P. O. Box 73  
Walton Park  
Alberta, Canada

Name: Brian HUGHES and Carrie HUGHES  
Address: 101 Carson Pl.  
Fort McMurray, Alberta Canada

After obtaining Mr. WALDVOGAL'S identification and before citing him I approached a few of the passengers and asked them how much they paid for the tour. They all said "nothing." I asked WALDVOGAL what was going on. He said that after being cited he contacted the operator of the power vessel "UFO," a legal commercial operator, if he could take the passengers he had booked. Being unable to find anyone to take the passengers he had booked for his tour, he took them out free of charge. I then approached the passengers again and asked a few more questions. They were not forthcoming with any information other than they did not pay. One woman said to talk to her husband and one man said his wife made the arrangements. I pushed one man a little further asking him how that is possible, you have to book the tour in advance with a credit card? He hesitated and left me to approach WALDVOGAL to ask him. The passengers and operators were now all together and I again asked the question. A few were now willing to give more information. One man said yes they had booked with a credit card but still insisted that they were not charged.

Rushforth, Robert  
Officer



83  
Badge No.

SEP-2 2015 / 1010 HRS  
Date / Time





State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION #  
15-0234-KA

DISTRICT  
East District

LEAD INVESTIGATOR  
Robert Rushforth

KEY REPORT  
☐ Yes ☒ No

DATE/TIME REPORTED  
5/6/2015 8:00:00 AM

LOCATION  
Hanalei Bay

CLASSIFICATION  
Commercial Use Permit

CONNECTING REPORT(S)

## Report (Continued)

I asked Mr. WALDVOGAL how far out he books his tours. He said two weeks. I said you're going to take people out free for two weeks. He said he could not do this for long since he had to pay SHEEHAN.

At about 1424 hours I contacted Steven BAPTIST, owner of the vessel named "UFO." I asked him if WALDVOGAL had contacted him to make arrangements for the people he had booked for his tour to go on his vessel instead. Mr. BAPTIST said he had not. Even if he had he would not help him. BAPTIST said WALDVOGAL has been operating for the past five years, when is this going to stop.

### May 15, 2015:

At about 1120 hours I observed the vessel "Kokua Kai", HA-1738-CP entering Hanalei Bay. The vessel entered Hanalei River at about 1134 hours. On board were three passengers, one crew member and an operator. I recognized the operator as WALDVOGAL. The vessel proceeded to a dock affixed to unencumbered state land and submerged lands within the river adjacent to property owned by Patricia W. SHEEHAN Trust. There the vessel secured to the dock and offloaded its passengers. Refer to the attached photographic report showing a photo of the vessel entering the river.

### May 21, 2015:

At about 1135 hours I observed the power vessel "Kokua Kai" in the bay proceeding to shore. The vessel entered the Hanalei River at about 1151 hours with six passengers, one crew and one operator I recognized as WALDVOGAL. The vessel proceeded to a dock affixed to unencumbered state land and submerged lands within the river adjacent to property owned by Patricia W. SHEEHAN Trust. There the vessel secured to the dock and offloaded its passengers. Refer to the attached photographic report showing a photo of the vessel entering the river.

### May 23, 2015:

At about 1205 hours I saw "Kokua Kai" headed in at the half way point in Hanalei Bay. "Kokua Kai" was towing another grey inflatable vessel displaying HA-7372-G at the bow of the vessel. The vessel being towed had seven people onboard. It appeared six were passengers, one was the operator. When they got close to shore near the mouth of the Hanalei River, and where it was shallow, the tow line was cast off and the vessel being towed was manually pushed to shore where the passengers were offloaded along with numerous plastic bags. The way the bags were being carried and the impression the contents made through the bag led me to believe they contained camping gear.

"Kokua Kai" continued to the mouth of the river. When it got very shallow the crew member and four male passengers got out to push the vessel. When the vessel had enough water to use its outboard engines the crew member got back in and the four male passengers walked to shore. I then photographed the vessel entering the river. I recognized the operator as WALDVOGAL. Two of the men walked in my direction. When they got ashore I had a chance to ask them where they were from. One was from Spain and the other was from Venezuela. Refer to the attached photographic report showing a photo of the vessel entering the river. Four passengers were offloaded in Hanalei Bay prior to entering the river and two were offloaded at the dock attached to unencumbered state land adjacent to the SHEEHAN property.

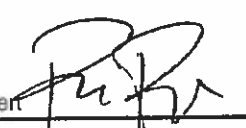
### May 28, 2015:

I check the Department Commerce and Consumer Affairs (DCCA) website for Bali Hai Charters and found the following:

Trade Name:	Bali Hai Charters
Status:	Expired
Purpose:	Motorized Commercial Boat Tours Originating From Hanalei River, Kauai
Expiration Date:	Sep 27, 2010
Registration Date:	Sep 28, 2005
Registrant:	Hanalei River Enterprises, Inc.
Agent Name:	Michael Guard Sheehan

(see Attachment # 4)

Rushforth, Robert  
Officer



83  
Badge No.

SEPT 2, 2015 / 1010 HRS  
Date / Time



State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION #  
15-0238 KA

DISTRICT  
East District

LEAD INVESTIGATOR  
Robert Rushforth

KEY REPORT  
☐ Yes ☒ No

DATE / TIME REPORTED  
5/6/2015 8:00:00 AM

LOCATION  
Hanalei Bay

CLASSIFICATION  
Commercial Use Permit

CONNECTING REPORT(S)

## Report (Continued)

I checked the Bali Hai Tours website and found the following:

- They provide snorkel gear, snacks and drink at no extra charge (*see Attachment #5*)
- Photo showing "Kokua Kai" filled with passengers displaying its old pleasure (non-commercial) registration numbers. (*see Attachment #6*)
- Six other photos showing "Kokua Kai" filled with passengers along the Na Pali Coast. (*see Attachment #7*)
- "Bali Hai Tours is a family-owned company..." (*see Attachment #8*)
- "The following will be available free of extra charge..." (*see Attachment #5*)
- Under "Want a customized cruise?" link, the following information is given. "Costs can be estimated as follows... (*see Attachment #9*)

**Starting at \$1200**

Add \$25 to standard cost/passenger  
6 passenger maximum

**Please add: State tax, 4%**

**Add \$50 for each extra ½ hour on the ocean**

**Specialty food requests: Cost dictated by market price (*see Attachment #9*)**

We require 72 hour notice for any requests beyond our standard snacks and beverages. You are of course, welcome to bring your own at no extra charge."

- "A discount is available for those booking online." (*see Attachment #10*)
- An additional discount for military and first responders ID also available. Bring your professional ID to the departure location."
- A map showing the departure location, with a red X, is the property owned by Patricia W. SHEEHAN Trust also known as the boat yard. (*see Attachment #11*)
- A link takes one to the Kauai Boat Enterprises page. On that page it mentions Joe LICONA-WALDVOGEL. There is also the following paragraph. ABOUT BALI HAI TOURS Kauai Boat Enterprises also owns and operates Bali Hai Tours- a small-scale, low impact eco-boat tour and private charter company offering intimate, customizable tours of the Na Pali Coast and all of Kauai's navigable waters. Bali Hai Tours is happy to be celebrating 25 years of service to the residents, visitors and business of Kauai and perfect safety record." (*see Attachment #12*)

Found the following tripadvisor reviews of Bali Hai Boat Tours

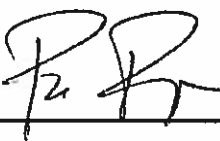
Reviewed April 16, 2015 (*see Attachment #13*)

"My family and I are yearly visitors to Kauai. We have gone out twice with Joe and Matt! We loved it so much back in 2011 we had to go again in 2014 with new family members..."

Reviewed July 10, 2013 (*see Attachment #14*)

"Joe of Bali Hai Tours gave us an amazing tour of the Napali Coast. His boat is a Zodiac which holds only about 8 people per tour so it is intimate and personalized. Very competitively priced as well."

Rushforth, Robert  
Officer



83  
Badge No.

SEPT 2, 2015 / 1010 425  
Date / Time



State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 15-0233-KA	DISTRICT East District	LEAD INVESTIGATOR Robert Rushforth	KEY REPORT <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
DATE / TIME REPORTED 5/6/2015 8:00:00 AM	LOCATION Hanalei Bay	CLASSIFICATION Commercial Use Permit	CONNECTING REPORT(S)

## Report (Continued)

### June 4, 2015:

I received an e-mail from Leslie Milnos with the county of Kauai. The county had surveyed the Sheehan land and found unencumbered state land between Patricia Sheehan's property and the Hanalei River. It also shows that the pier used by "Kokua Kai", HA-1738-CP is attached to unencumbered state land. See attachments for additional information. (see Attachment #15)

### July 29, 2015:

At about 1110 hours I observed the vessel "Kokua Kai", HA-1738-CP entering Hanalei Bay. The vessel entered Hanalei River at about 1136 hours. On board were five passengers, one crew member and an operator. I recognized the operator as WALDVOGAL. The vessel proceeded to a dock affixed to unencumbered state land and the submerged lands within the river adjacent to property owned by Patricia W. SHEEHAN Trust. There the vessel secured to the dock and offloaded its passengers at about 1141 hours. Refer to the attached photographic report showing a photo of the vessel entering the river.

### August 6, 2015:

I checked Bali Hai Tours website and found that the "reserve your seat(s)" link was now active. That link directed me to their booking page. It shows dates, seats available and pricing. It's \$175 per adult and \$110 for each child. Refer to the attachments for a copy of the page. (see Attachment #16)

### August 26, 2015:

I obtained a copy of Officer Ingram's report 15-0233-KA regarding the citation issued to Joe R. WALDVOGAL, aka Joe R. LICONA. In this report there were five supplemental reports by officers taking statements from passengers who were taken out on a paid tour on May 6, 2015.

### Officer DONOHUE interviewed:

Name: Cherie SWEENEY  
Address: 29 James Rd. Corrimal, NSW 2518  
Telephone # (Australia): 0414776695

### Witness Statement:

She was referred to the "Kokua Kai" by the concierge at the Cliffs in Princeville. The concierge booked the tour for her and she paid \$169 by credit card for the tour. She arrived at the Hanalei River at 0700 hours and departed from the river at about 0715 hours. The boat tour cruised along the Na Pali coast and past the open ceiling cave; they snorkeled off tunnels beach for about 45 min, ate a snack and returned to the same location up the Hanalei river at about 12:30 hours.

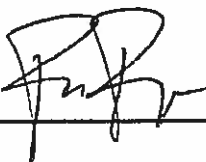
### Officer TANAKA interviewed:

Name: Linda KENNETH  
Address: 338 Peso Falcon Sa. Clemente CA

### Witness Statement:

They had not paid for the tour yet. She saw a brochure for the tour. They got on the boat here (Hanalei).

Rushforth, Robert  
Officer



83  
Badge No.

SEP 2, 2015 / 1010 HRS  
Date / Time



State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 15-0238 KA	DISTRICT East District	LEAD INVESTIGATOR Robert Rushforth	KEY REPORT <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
DATE / TIME REPORTED 5/6/2015 8:00:00 AM	LOCATION Hanalei Bay	C C	CONNECTING REPORT(S)

## Report (Continued)

Field Supervisor ADDINGTON interviewed crew member

Name: Matthew MARCUS  
Address: P.O. Box 339 Anahola HI 96703  
Phone #: (808) 561-1926

Crew Member Statement:

He was employed as a crew member for Bali Hai Kokokua Kai. States he came in and set up the vessel for a tour. States they did go on an approximate 3-1/2 hour tour down the Napali Coast, moored and snorkeled at Nuiolo, then came back. States he gets paid \$50.00 a tour. Usually once a day. States he is not in charge of the money collection or payment from customer to company.

Officer LLANTO interviewed:

Name: George KENNETH  
Address: 3388 Paseo Halcon, San Clemente, CA.  
Phone #: (949) 493-8738

Witness Statement:

Learned of Boat tour from brochure. Met at 7:00 a.m. on Hanalei. Enjoyed the beautiful view of Napali Coast. Payment upon completion of tour.

Officer GANDEZA interviewed:

Name: Mark SWEENEY  
Address: 29 James Rd. Corrimal New South Wales 2518  
Phone #: 610242856685

Witness Statement:

The tour was advertised at the Cliffs Hotel. He paid \$169.00 at the Cliffs for the tour. The tour started at Hanalei Bay and went to the Na Pali Coast. While on the Na Pali the boat stopped so passengers could snorkel with the turtles. The tour started at 0700 and ended at 1200.

Officer GARCIA interviewed:


Name: Sheila Evette LEE  
Address: 145 Bellevue Dr. 2 San Leandro, CA 94577  
Phone #: (510) 730-9452

Name: Carl VAN SMITH  
Address: 919 Inveness Dr. Paso Robles, CA 93446  
Phone #: (805) 239-8447

Witness Statements:

Both passengers LEE and VAN SMITH related that they obtained information from the boat tour company via brochures from the hotel they were staying at. VAN SMITH related to this Officer that he paid \$100 per person for his group of four (4). According to the interviewed passengers, they related that the tour began from 7am to 12noon, and was picked up from Hanalei river area; same area they were dropped off.

Rushforth, Robert  
Officer



83  
Badge No.

SEPT. 2, 2015 / 1010 HRS  
Date / Time



State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION #  
15-0233-KA

DISTRICT  
East District

LEAD INVESTIGATOR  
Robert Rushforth

KEY REPORT  
[ ] Yes [X] No

DATE / TIME REPORTED  
5/6/2015 8:00:00 AM

LOCATION  
Hanalei Bay

CLASSIFICATION  
Commercial Use Permit

CONNECTING REPORT(S)

## Report (Continued)

### SUMMARY:

Complaint came in that Joe Roby WALDVOGAL also known as Joe LICONA and Joe LICONA-WALDVOGEL is running illegal tours out of Hanalei Bay using the vessel "Kokua Kai" and operating under the name "Bali Hai Tours." I observed WALDVOGAL operating the vessel "Kokua Kai" six times with what looked like visitors and one crew member. He departs and returns to a dock within the Hanalei River that is attached to unencumbered state land. Adjacent to the unencumbered state land is land owned by Patricia W. SHEEHAN Trust. On the SHEEHAN land is a tent and storage to support the vessel's operation. On the tent, at the entrance to the SHEEHAN property and at the beginning of the road to SHEEHAN's property are signs with the business name "Bali Hai Tours." Every time I saw the vessel out, rental cars were parked in front of the "Bali Hai Tours" tent. The first time his passengers were approached by officers they admitted paying for the tour and the operator was cited. The second time his passengers were approached they stated that they did not pay. WALDVOGEL said he took them out free of charge because he could not find another tour company to take his passengers. When I checked with one of the tour companies he claimed to have contacted to take his passengers. I was told WALDVOGEL did not contact them, and even if he did, he would not help him. WALDVOGEL admitted to me that he has to pay SHEEHAN to operate out of there.

Bali Hai Tours has a website. This website directs people to the SHEEHAN property where the Bali Hai Tours tent and dock is located. There is a booking page enabling people to book specific dates and shows the cost for the tour. The cost is \$175 for each adult and \$110 for each child. They provide for no additional cost: PFD's, snorkel gear, infant car seat, floater noodles, seat cushions, weather gear, dry bags, snacks and beverages. They offer discounts for military and first responders. They also offer custom tours starting at \$1200. The booking page has a place for a Wyndham Premier Number indicating a relationship with numerous hotels on Kauai. His website also shows photos of the vessel "Kokua Kai." In those photos the state registration numbers displayed on the bow are HA-2029-G. WALDVOGEL applied to change his pleasure numbers (HA-2029-G) to commercial numbers (HA-1783-CP) on January 21, 2011. The photos on his website indicate he has been operating commercially from before January 21, 2011 (see Attachment #17). There are reviews on the website Tripadvisor going back to October 2012 for "Bali Hai Tours."

The website for the Department of Commerce and Consumer Affairs (DCCA) shows the purpose for Bali Hai Charters as "Motorized Commercial Boat Tours Originating From Hanalei River, Kauai."

An article that appeared in The Garden Island Newspaper has WALDVOGEL admitting that he is running commercial vessel activities and that he knows a permit is necessary to operate, which he does not have.

### DISPOSITION:

Refer to the Land Board for action.

### ATTACHED:

Photo Report

- Attachment #1
- #2 Aerial photo of the SHEEHAN property from County of Kauai tax office website
  - #3 Aerial photo obtained from the County of Kauai Showing unencumbered state lands where the dock is located.
  - #4 The Garden Island newspaper article obtained online "North Shore boats cited"
  - #5 Bali Hai Charters information from DCCA's website
  - #6 Bali Hai Tours web page (items available free of charge)
  - #7 Bali Hai Tours web page showing photos of Kokua Kai displaying HA-2029-G
  - #8 Bali Hai Tours web page showing more photos of Kokua Kai
  - #9 Bali Hai Tours web page (Bali Hai Tours is a family-owned company...)
  - #10 Bali Hai Tours web page (custom tours starting at \$1200)
  - #11 Bali Hai Tours web page (discount is available for those booking online. Additional discount...)
  - #12 Bali Hai Tours web page (map showing departure location for the tour)
  - #13 Kauai Boat Enterprises web page (About Bali Hai Tours-Kauai Boat Enterprises also owns and operates Bali Hai Tours)
  - #14 Tripadvisor web pages (3 pages) Bali Hai Tours reviews
  - #15 Tripadvisor web pages (3 pages) Bali Hai Tours reviews
  - #16 Map from County of Kauai showing survey of unencumbered lands and the location of the dock Bali Hai Tours use
  - #17 Bali Hai Tours web pages (2 pages, Booking Page)
  - #18 Boating Registration form for Kokua Kai, HA-1783-CP, formally HA-2920-G
  - #19 copy of 13-256-39 (5) Hanalei Bay ocean waters, general restrictions.
  - #20 copy of 13-256-3 (a) Commercial operator permit
  - #21 copy of citation report 15-0233-KA, 05/06/2015

Rushforth, Robert  
Officer

83  
Badge No.

SEPT 2, 2015 / 1010 HRS  
Date / Time

*[Handwritten signature]*



INVESTIGATION #  
15-0233-KADISTRICT  
East DistrictLEAD INVESTIGATOR  
Otis Ingram, Jr.KEY REPORT  
☒ Yes ☐ NoDATE / TIME REPORTED  
5/6/2015 12:05:00 PMLOCATION  
Hanalei BayCLASSIFICATION  
Commercial Use Permit

CONNECTING REPORT(S)

Report Type: ☐ Continuation of Report☒ Supplemental☐ Follow Up

Date/Time Written:

Written By: Garcia, Jeffrey

## Report

### Synopsis:

Supplemental report with observations and investigation.

### Observations:

Observed a small Zodiac Rigid Hulled Inflatable boat, with several passenger on board. Vessel was observed by this Officer entering the Hanalei Bay area and continued its way up the Hanalei River to a nearby boat ramp. Passengers appeared to disembark at the catwalk.

### Passengers:

- Sheila Evette LEE  
DOB: 05/21/57 (57)  
145 Bellevue Dr. 2  
San Leandro, CA. 94577  
Ph#: (510) 730-9452
- Carl VAN SMITH  
DOB: 12/13/44 (70)  
919 Inveness Dr.  
Paso Robles, CA. 93446  
Ph#: (805) 239-8447

COPY

### Investigation:

On May 06, 2015, between 0700hrs to 1400hrs, this Officer was assigned to the Hanalei Bay area to investigate illegal boating activities being conducted from the Hanalei Bay area.

As this Officer made the above stated observations, this Officer made its way to the dock and met up with other assisting DOCARE Officers. This Officer obtained statements from the aforementioned passengers. Both passengers LEE and VAN SMITH related that they obtained information of the boat tour company via brochures from the hotel they were staying at.

VAN SMITH related to this Officer that he paid \$100 per person for his group of four (4). According to the interviewed passengers, they related that the tour began from 7am to 12noon, and was picked up from Hanalei

Garcia, Jeffrey  
Officer166  
Badge No.06/10/2015; approx. 1155hrs  
Date / Time

State of Hawaii   Department of Land & Natural Resources   Division of Conservation and Resources Enforcement			
INVESTIGATION # 15-0233-KA	DISTRICT East District	LEAD INVESTIGATOR Otis Ingram, Jr.	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE/TIME REPORTED 5/6/2015 12:05:00 PM	LOCATION Hanalei Bay	CLASSIFICATION Commercial Use Permit	CONNECTING REPORT(S)

## Report (Continued)

### Investigation (cont'd):

River area; same area they were dropped off. A total of 6 passengers were on board; 4-passengers and a crewman, and the captain himself. No other statements were obtained.

### Disposition:

Cited.

COPY

Garcia, Jeffrey  
Officer

166  
Badge No

06/10/2015; approx. 1155hrs  
Date / Time



State of Hawaii   Department of Land & Natural Resources   Division of Conservation and Resources Enforcement			
INVESTIGATION # 15-0233-KA	DISTRICT East District	LEAD INVESTIGATOR Ole Ingram, Jr.	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 5/6/2015 12:05:00 PM	LOCATION Hanalei Bay	CLASSIFICATION Commercial Use Permit	CONNECTING REPORT(S)

Report (Continued)

COPY

Garcia, Jeffrey  
Officer

166  
Badge No.

Date / Time

State of Hawaii   Department of Land & Natural Resources   Division of Conservation and Resources Enforcement			
INVESTIGATION # 15-0233-KA	DISTRICT East District	LEAD INVESTIGATOR Chris Ingram, Jr.	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 5/6/2015 12:05:00 PM	LOCATION Honalei Bay	CLASSIFICATION Commercial Use Permit	CONNECTING REPORT(S)

## Report (Continued)

COPY

Garcia, Jeffrey  
Officer

166  
Badge No.

Date / Time

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 15-0233-KA DISTRICT East District LEAD INVESTIGATOR Otis Ingram, Jr. KEY REPORT [ X ] Yes [ ] No  
DATE / TIME REPORTED 5/6/2015 12:05:00 PM LOCATION Hanalei Bay CLASSIFICATION Commercial Use Permit CONNECTING REPORT(S)

Report Type: [ ] Continuation of Report [ ] Supplemental [ ] Follow Up  
Date/Time Written:  
Written By: Ingram, Jr., Otis

## Report

**SYNOPSIS:** Reported unpermitted Commercial Tour Boats operating out of Hanalei River.

**SCENE:** Hanalei River, vicinity area known as Sheehan's Boat Yard.

**DATE/TIME OCCURRED:** Wednesday, May 6 2015 at approximately 1205hrs.

**OBSERVATIONS:** Observed a gray inflatable vessel (Kokua Kai, HA-1783-CP), enter Hanalei Bay and traverse up Hanalei River. Vessel "Kokua Kai" contained six (6) passengers, one (1) crew member and one (1) Boat Captain known to this Officer as Joe Licona.

**SUSPECT:** Joe R. LICONA aka Joe R. WALDVOGAL DOB: 8/4/58 (56)  
Hawaii D.L. #559-23-6199  
P.O Box 339 Anahola, HI 96703  
Ph# (808) 634-2317  
(Captains License, Document #USA000115138, Type PG, Expired: 19Jul2016)

**SUSPECT'S STATEMENT:** Joe R. Licona

- Stated he does not have a permit to operate his Boat Tours out of Hanalei River.
- Stated he applied for a permit to operate out of Hanalei.
- His permit is to operate out of Kapaa Small Boat Harbor.

**SUSPECT'S VESSEL:** Kokua Kai, HA-1783-CP  
2001 Gray Zodiac RHI, powered by twin 75HP Mercury Outboard Engines

**WITNESS / PASSENGERS STATEMENT:** Refer to attached supplementary reports submitted by DOCARE Officers K. Donohue, G. Tanaka, C. Gandeza, K. Addington, P. Lianto, J. Garcia and B. Rushforth.

**PHOTOS:** Refer to attached photos submitted by Officer B. Rushforth.

**VIOLATION:** Hawaii Administrative Rules, 13-256-3, Commercial Use Permit

**INVESTIGATION:** Assigned to Hanalei, North shore of Kauai, to assist with the investigation of unpermitted Commercial Tour Boats operating out of Hanalei River. Upon arrival, observed the vessel named "Kokua Kai" enter Hanalei Bay and traverse up Hanalei River. The vessel contained six (6) passengers, one (1) crewmember and was being operated by Joe R. Licona also known to this Officer as Joe R. Waldvogal. The vessel continued up Hanalei River and moored alongside a dock at an area referred to as "Sheehan's Boatyard. Observed the passengers disembark the vessel. Made contact with Joe Licona and asked him if he had a Commercial Use Permit to operate his Boat Tours out of Hanalei. His response was "No" and he was cited for stated Offense. Checks were verified with Acting T/A Supervisor B. Akana and DLNR/DOBAR Manager, Joe Borden. For witness statements and photographs, refer to attached supplementary reports submitted by DOCARE Officers. I have no further information at this time.

**DISPOSITION:** CITED

Ingram, Jr., Otis  
Officer

199  
Badge No.

5/23/15 1305  
Date / Time

## Citation

## Subject C

Case Information  
 Citation Number: 0011571404  
 Citation Type: LMR (Land & Natural Resources)  
 Issuing Office: Oneonta, NY  
 Status: Investigation  
 Issue Date/Time: 05/06/2015 12:05  
 Violation Date/Time: 05/06/2015 12:05  
 Location: Hunter Hwy  
 Location Note: Location previously known as Mrs. Elizabeth Bass Lane  
 Investigation #

## Defendant

Name: Luciano, Joe, Hub  
 SSN: 000441810, Mar, 5/9/2006

Phone: 808 634-0117

Residence Type: RR Residential

Home Address: Po Box 119

Address: RR, 06700

Occupation:  
 Employer / School:  
 Work Address:

Mar, RR

Mar

## Defendant Notes

Violation:  
 Division: DBOR  
 Court: Judge  
 Court Date: 06/04/2015  
 Violation: Activity Code: Disposition:

Evidence:  
 Evidence Taken: Yes  
 Evidence Disposition: Pending  
 Evidence Disposition Date:  
 Description of Evidence: Photographs

## Vehicle

## Notes

Citation Notes: Suspect Joe Luciano is also known as Joe Whiteoak

## Approvals

Approving Supervisor: Gonzales, Lionel

## Supervisor Notes

Approving Branch Chief: Mission, Francis

## Branch Chief Notes

INVESTIGATION # 15-0233-KA	DISTRICT East	LEAD INVESTIGATOR Ola Ingram	KEY REPORT <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
DATE/TIME REPORTED 05-06-15/0900 hours	LOCATION Hanalei	CLASSIFICATION Commercial Use Permit	CONNECTING REPORT(S)

Report Type: ☐ Continuation of Report ☒ Supplemental ☐ Follow Up  
 Date/Time Written: May 06, 2015 @ 1600 hours  
 Written By: Donohue, Kim

## Report

COPY

**SYNOPSIS:** Supplemental Report (15-0233-KA)

### OBSERVATIONS:

- Observed vessel "Kokua Kai" (HA 1783 CP) enter Hanalei Bay and continue toward Hanalei river mouth
- Observed vessel "Kokua Kai" (HA 1783 CP) enter mouth of Hanalei River
- Observed vessel "Kokua Kai" (HA 1783 CP) dock in front of property owned by Patricia Sheehan located on south side of Hanalei River
- Observed passengers disembark from vessel "Kokua Kai" (HA 1783 CP)

**WITNESS (PASSENGER) INFORMATION:** Cherie SWEENEY did not have her identification but verbally provided me with the following information:

- Name: SWEENEY, Cherie
- Address: 29 James Rd. Corimal, NSW 2518
- Telephone # (Australia): 0414776695

**WITNESS (PASSENGER) STATEMENTS:** SWEENEY told me the following:

- She was referred to the "Kokua Kai" by the concierge at the Cliffs in Princeville
- The concierge booked the tour for her and she paid \$169 by credit card for the tour
- She arrived at the Hanalei River at 0700 hours and departed from the river at about 0715 hours
- The boat tour cruised along the Na Pali coast and past the open ceiling cave; they snorkeled off tunnels beach for about 45 min, ate a snack and returned to the same location up the Hanalei river at about 12:30 hours

Donohue, Kim  
Officer

*[Signature]*

114  
Badge No.

05-06-15/1600 hours  
Date / Time

1100-9-1-2011

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION #  
15-0233-KA

DISTRICT  
East District

LEAD INVESTIGATOR  
Otis Ingram, Jr.

KEY REPORT  
☒ Yes ☐ No

DATE/TIME REPORTED  
5/6/2015 12:05:00 PM

LOCATION  
Hanalei Bay

CLASSIFICATION  
Commercial Use Permit

CONNECTING REPORT(S)

Report Type: ☐ Continuation of Report ☒ Supplemental ☐ Follow Up

Date/Time Written:

Written By: Tanaka, Glenn

## Report

### SYNOPSIS:

- Obtained statement from Linda Kenneth.

### ASSIGNMENT:

- I was assigned to obtain a statement from passenger.

### PASSENGER:

Linda KENNETH

ADDRESS: 338 Peso Falcon Sa. Clemente CA.

### STATEMENT OF Linda Kenneth

On 03/06/15 (Wednesday) at approximately 1207 hrs. Linda stated the following.

- That they have not paid for the tour yet.
- She saw a brochure for the tour.
- They got on the boat here (Hanalei).

### INVESTIGATION:

- On 03/06/15 (Wednesday) at approximately 1207 hrs, I obtained the above information from Linda Kenneth.
- Refer to main report for full investigation.

### DISPOSITION:

Cited.

COPY

Tanaka, Glenn  
Officer

*Glenn Tanaka*

252  
Badge No.

05/17/15  
Date / Time

15-0233-KA  
East District  
Otis Ingram, Jr.  
5/6/2015 12:05:00 PM  
Hanalei Bay  
Commercial Use Permit  
Continuation of Report  
Obtained statement from Linda Kenneth.  
I was assigned to obtain a statement from passenger.  
Linda KENNETH  
338 Peso Falcon Sa. Clemente CA.  
STATEMENT OF Linda Kenneth  
On 03/06/15 (Wednesday) at approximately 1207 hrs. Linda stated the following.  
That they have not paid for the tour yet.  
She saw a brochure for the tour.  
They got on the boat here (Hanalei).  
INVESTIGATION:  
On 03/06/15 (Wednesday) at approximately 1207 hrs, I obtained the above information from Linda Kenneth.  
Refer to main report for full investigation.  
DISPOSITION:  
Cited.

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION #  
15-0233-4A

DISTRICT  
East District

LEAD INVESTIGATOR  
Ois Ingram, Jr.

KEY REPORT  
☒ Yes ☐ No

DATE / TIME REPORTED  
5/6/2015 12:05:00 PM

LOCATION  
Hanalei Bay

CLASSIFICATION  
Commercial Use Permit

CONNECTING REPORT(S)

Report Type: ☐ Continuation of Report ☒ Supplemental ☐ Follow Up  
Date/Time Written: 05/15/2015 - 1230 hrs.  
Written By: Addington, Kalani

## Report

### CURRENT ASSIGNMENT

My current assignment is the West District Supervisor for the State of Hawaii DLNR/DOCARE. On this day, May 6, 2015 I assisted East District officers with a Commercial Use Permit investigation.

SCENE : Hanalei Bay

### WITNESS STATEMENT

MARCUS, Matthew DOB: 04/29/89 - 26  
P.O. Box 339 Anahola HI 96703 (808) 561-1926  
Crew Member

States on May 6, 2015 he was employed as a Crew Member for Bali Hai Kokokua Kai. States he came in and set up the vessel for a tour. States they did go on an approximate 3 1/2 hour tour down the Napali Coast, moored and snorkeled at Nulolo, then came back. States he gets paid \$50.00 a tour. Usually its once a day.

States he is not in charge of the money collection or payment from customer to company.

INVESTIGATION : Assisted East District Officers with an investigation on the North Shore. Identified and took a statement from a subject that was on the vessel. See above for statement.

DISPOSITION : Cited

COPY

  
Addington, Kalani  
Officer

18  
Badge No.

05/15/2015 - 1230 hrs.  
Date / Time

State of Hawaii | Department of Land & Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 15-0233-KA	DISTRICT East District	LEAD INVESTIGATOR Ola Ingram, Jr.	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE/TIME REPORTED 5/6/2015 12:05:00 PM	LOCATION Hanalei Bay	CLASSIFICATION Commercial Use Permit	CONNECTING REPORT(S)

Report Type: ☐ Continuation of Report ☒ Supplemental ☐ Follow Up  
Date/Time Written: 051615/1200 hours  
Written By: P. Llanto

## Report

**SYNOPSIS:** Passenger statement.

**ASSIGNMENT:** Obtain statement from passenger per T/A Supervisor B. AKANA.

**PASSENGER:** Identified via U.S. Passport #C00971480 on 050615.  
Name: George KENNETH  
DOB: 12/26/1942  
ADDRESS: 3388 Paseo Halcon, San Clemente, CA.  
PH: 949-493-8738

**Statement:** Obtained on 050615 at 1209 hours.  
- Learned of Boat tour from brochure.  
- Met at 7:00 a.m. on Hanalei.  
- Enjoyed the beautiful view of Napali Coast.  
- Payment upon completion of tour.

**DISPOSITION:** Cited. Refer to report #15-0233-KA.

COPY

P. LLANTO  
Officer

253  
Badge No

051615/1200 hours  
Date / Time



# DOCARE COMPLAINT & SUMMONS

in the DISTRICT/FAMILY COURT

of the Fifth JUDICIAL CIRCUIT, STATE OF HAWAII

Drvr Lic. /SSN: 559-23-6199 H.I. 1

NAME: LICONA Last: ROB

Current/Mailing Address: PO BOX 339

City, State, Zip: ANAHOLA HI 96703

Hgt: 58 Wt: 218 Sex: M Date of Birth: 8/04/58 Age: 36 Complexion: FAIR

Place of Employment / School or Branch of Business: KAUAI BOAT ENT

Parent's name if juvenile or Registered owner of vehicle/vessel: HA 1783 CP KAUAI BOAT ENT

Phone number (Days): 808 634-2317 (Eves): X

Did on/for about this: 6 day of MAY 15 at about 12 05 AM

did operate/command Vehicle/Vessel: HA 1783 CP

Vehicle/Vessel Make/Name: ZODIAC Type: RAV Color: GRAY Yr: 01

at (location): HANALEI RIVER BOAT YARD

and did commit this offense of: COMMERCIAL USE PERMIT

SECTION: 13-256-3

EVIDENCE TAKEN: Yes No PHOTOS

Receipt of this citation is acknowledged (Your signature is not an admission of guilt)

X Signature

The undersigned alleges that the person named above committed the offense herein set forth contrary to law

Date of Issue: 5/6/15 Time: 12 30 Hrs.

Print Rank, First Initial & Last Name: CROO D. INGRAM JR Badge/ID No: 199

Complainant's Signature: [Signature]

Bail Forfeiture by Mail Permitted: ☒ Yes ☐ No

Postmarked BEFORE court date: A CR7 B Postmarked ON court date: X

SUMMONS

Your court appearance date is: JUNE 24, 2015 TIME: 0900 AM COURTROOM: 245E

District Court Family Court of 245E

COURT

ON 5/06/15 AT 12:05 PM  
OBSERVED VESSEL # HA-1783 CP  
(KOKUA KAI) DOCK ALONGSIDE  
A CATWALK IN HANALEI RIVER  
AND UNLOAD PASSENGERS.  
BOAT CAPTAIN, JOE LICONA  
DID NOT HAVE A VALID  
COMMERCIAL USE PERMIT  
AS REQUIRED BY LAW  
H.A.R. 13-256-13 AND WAS  
CITED FOR STATED OFFENSE.  
FOR ADDITIONAL INFORMATION  
REFER TO REPORT # 15-0233-KA  
FOR DETAILS.

COPY

The undersigned alleges that the person named herein committed the offense set forth, contrary to law.

[Signature] Badge Number: 199

Subscribed and sworn before me on 5/17/2015 date

Signed: [Signature] STATE OF HAWAII, Land and Natural Resources

COPY



DOCARE  
PHOTOGRAPHIC REPORT

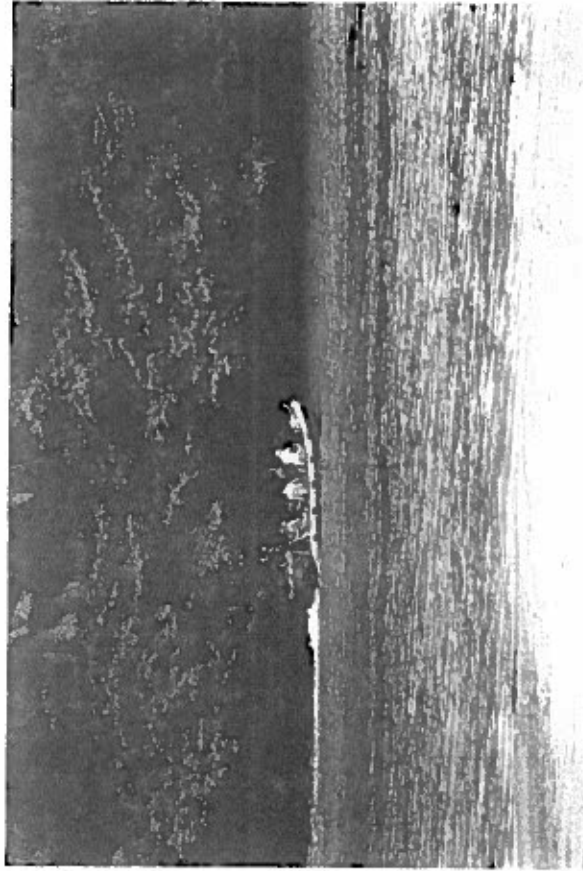
Classification: Commercial Use Permit  
 Taken by: Robert Rushforth  
 Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
 Photo Description: Kokua Kai (HA-1783-CP) entered Hanalei River from the sea.

Classification: Commercial Use Permit  
 Taken by: Robert Rushforth  
 Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
 Photo Description: Kokua Kai (HA-1783-CP) approaching dock within Hanalei River.

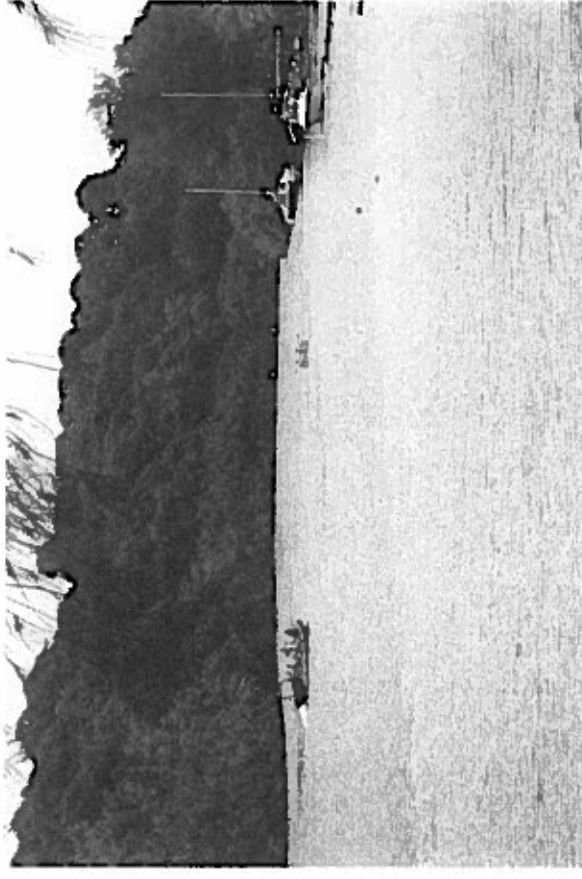
Rushforth, Robert  
 Officer *RR* Badge No. 83 Date / Time *SEPT 2, 2015 / 1030 HST*

Rushforth, Robert  
 Officer *RR* Badge No. 83 Date / Time *SEPT 2, 2015 / 1030 HST*

Photo# 1 of 23



Photo# 2 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Report# 15-0238-KA

Classification: Commercial Use Permit  
Taken by: Robert Rushforth  
Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
Photo Description: Operator at the bow and crew member on the starboard side maneuvering Kokua Kai (HA-1783-CP) to a dock within Hanalei River with six passengers.

Date & Time Taken: May 6, 2015 / 1200 hrs

*RR*

Rushforth, Robert  
Officer

83  
Badge No.

SEPT. 2 2015 / 1030 HRS  
Date / Time

Photo# 3 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Report# 15-0238-KA

Classification: Commercial Use Permit  
Taken by: Robert Rushforth  
Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
Photo Description: Passengers offloading from Kokua Kai (HA-1783-CP) onto a dock within Hanalei River.

Date & Time Taken: May 6, 2015 / 1201 hrs

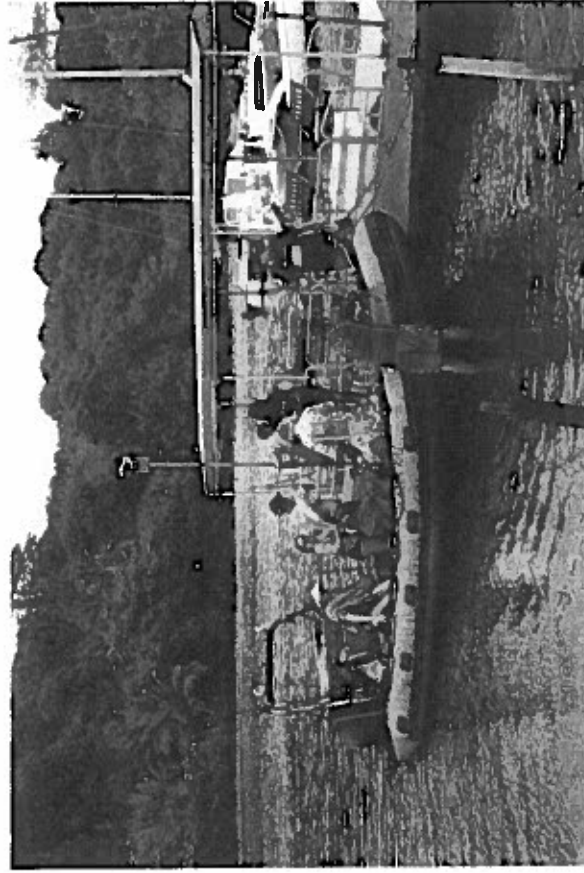
*RR*

Rushforth, Robert  
Officer

83  
Badge No.

SEPT. 2 2015 / 1030 HRS  
Date / Time

Photo# 4 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Classification: Commercial Use Permit  
 Taken by: Robert Rushforth  
 Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
 Photo Description: Bati Hai Tours tent and storage van near dock where passengers offloaded from Kokua Kai, HA-1783-CP

Date & Time Taken: May 6, 2015 / 1204 hrs

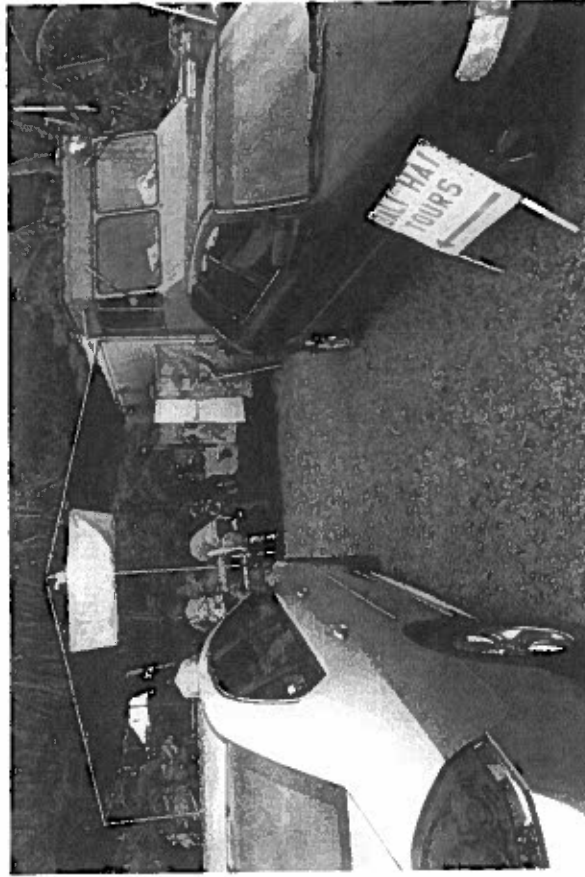
*RR*

Rushforth, Robert  
Officer

83  
Badge No.

SEPT. 2, 2015 / 1030 AM  
Date / Time

Photo# 5 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Classification: Commercial Use Permit  
 Taken by: Robert Rushforth  
 Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
 Photo Description: Van converted to a trailer adjacent to the Bati Hai Tours Tent. Officers interviewing passengers on the left under the Bati Hai Tours tent

Date & Time Taken: May 6, 2015 / 1211 hrs

*RR*

Rushforth, Robert  
Officer

83  
Badge No.

SEPT. 2, 2015 / 1030 AM  
Date / Time

Photo# 6 of 23

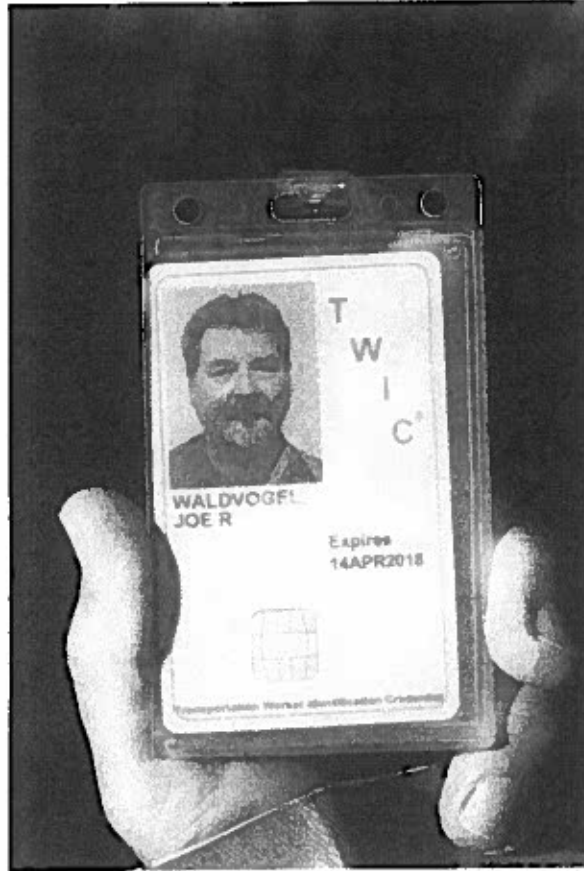


DOCARE  
PHOTOGRAPHIC REPORT

Classification: Commercial Use Permit  
 Taken by: Robert Rushforth  
 Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
 Photo Description: WALDVOGEL S TWIC card presented when an ID was requested

Rushforth, Robert  
 Officer *R.R.* SEP-2-2015 / 1030 hrs  
 Badge No. 83 Date / Time

Photo# 7 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Classification: Commercial Use Permit  
 Taken by: Robert Rushforth  
 Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
 Photo Description: WALDVOGEL S passport presented when an ID was requested

Rushforth, Robert  
 Officer *R.R.* SEP-2-2015 / 1030 hrs  
 Badge No. 83 Date / Time

Photo# 8 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Report# 15-0238-KA

Classification: Commercial Use Permit  
Taken by: Robert Rushforth  
Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
Photo Description: Vessel Kokua Kai (HA-1783-CP) entering Hanalei River from Hanalei Bay with six passengers one crew member, one operator and a dog.

Date & Time Taken: May 14, 2015 / 1147 hrs  
Date & Time Taken: May 14, 2015 / 1148 hrs  
Photo Description: Vessel Kokua Kai (HA-1783-CP) offloading passengers at a dock attached to unencumbered state land and submerged land with the Hanalei River adjacent to land owned by Patricia Sheehan.

Rushforth, Robert  
Officer

83  
Badge No.

SEP 2 2015 / 1030 Hrs  
Date / Time

Photo# 9 of 23



Photo# 10 of 23





DOCARE  
PHOTOGRAPHIC REPORT

Classification: Commercial Use Permit  
 Taken by: Robert Rushforth  
 Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
 Photo Description: Vessel Kokua Kai (HA-1783-CP) entering Hanalei River from Hanalei Bay with six passengers, one crew member, one operator and a dog.

Rushforth, Robert  
 Officer *RR* 83 Sept 2, 2015 / 1030 hrs  
 Badge No. Date / Time

Photo# 12 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Classification: Commercial Use Permit  
 Taken by: Robert Rushforth  
 Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
 Photo Description: Vessel Kokua Kai (HA-1783-CP) entering Hanalei River from Hanalei Bay with three passengers one crew member, one operator and a dog.

Rushforth, Robert  
 Officer *RR* 83 Sept 2, 2015 / 1030 hrs  
 Badge No. Date / Time

Photo# 11 of 23





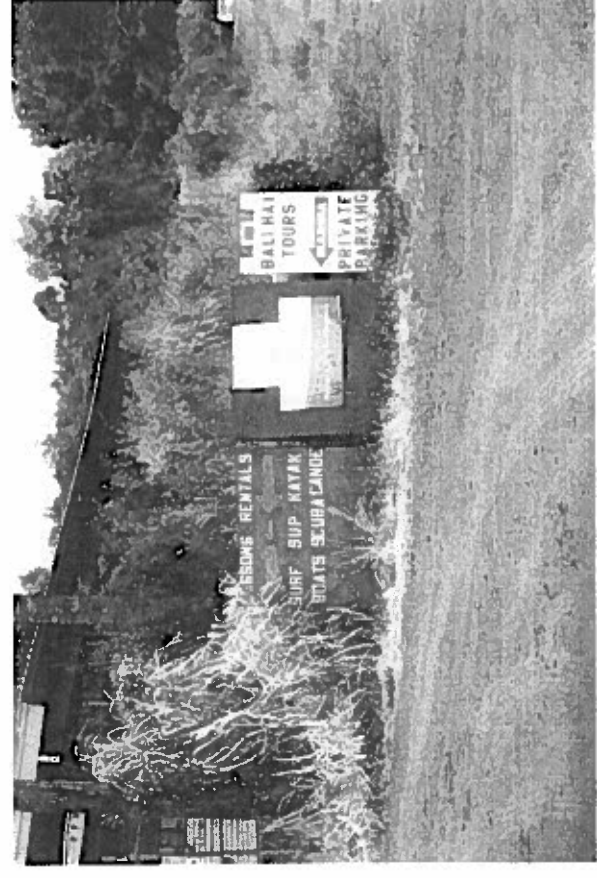
Classification: Commercial Use Permit  
Taken by: Robert Rushforth  
Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
Photo Description: Signs just outside the entrance to the SHEEHAN property also known as the Boat Yard.

Classification: Commercial Use Permit  
Taken by: Robert Rushforth  
Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
Photo Description: Signs at the beginning of a dirt road which leads to the entrance to the SHEEHAN property also known as the Boat Yard.

Rushforth, Robert *RR* 83 SEP 2 2015 / 1030 AM  
Officer Badge No. Date / Time

Rushforth, Robert *RR* 83 SEP 2 2015 / 1030 AM  
Officer Badge No. Date / Time

Photo# 14 of 23



Photo# 13 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Report# 15-0238-KA

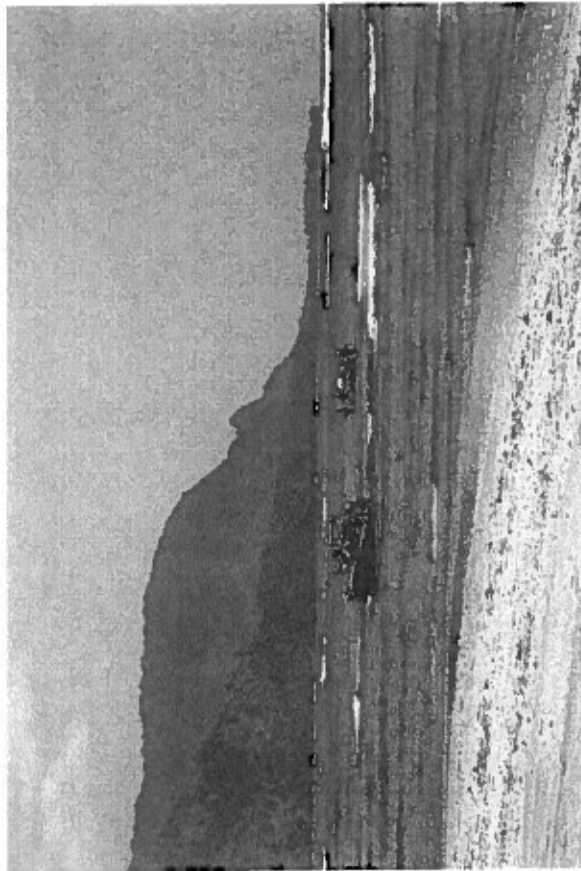
Classification: Commercial Use Permit  
Taken by: Robert Rushforth  
Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
Photo Description: The vessel to the left is "Kokua Kai," HA-1783-CP, towed in the vessel to the right displaying HA-7332-G. "Kokua Kai" had six passengers, one crew member and an operator.

Date & Time Taken: May 23, 2015 / 1213 hrs  
Classification: Commercial Use Permit  
Taken by: Robert Rushforth  
Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
Photo Description: The vessel "Kokua Kai" entering Hanalet River. Four of the passengers who got out to help push the vessel closer to shore did not get back into the vessel. They walked back to the dock where the two remaining passengers offloaded.

Rushforth, Robert  
Officer  
83  
Badge No.  
SEP 2, 2015 / 1030 Hrs  
Date / Time

RR

Photo# 15 of 23



Photo# 16 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Classification: Commercial Use Permit  
 Taken by: Robert Rushforth  
 Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
 Photo Description: Vessel Kokua Kai (HA-1783-CP) entering Hanalei River from Hanalei Bay with six passengers, one crew member, one operator and a dog.

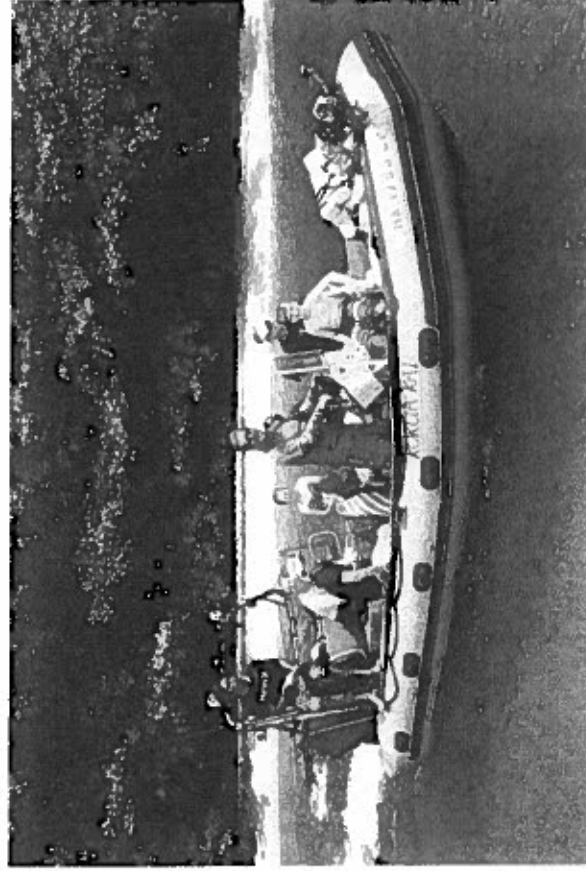
Rushforth, Robert  
 Officer

*[Signature]*

83  
 Badge No

SEPT 2, 2015 / 10:30 HRS  
 Date / Time

Photo# 17 of 23



Classification: Commercial Use Permit  
 Taken by: Robert Rushforth  
 Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
 Photo Description: Vessel Kokua Kai (HA-1783-CP) entering Hanalei River from Hanalei Bay with six passengers, one crew member, one operator and a dog.

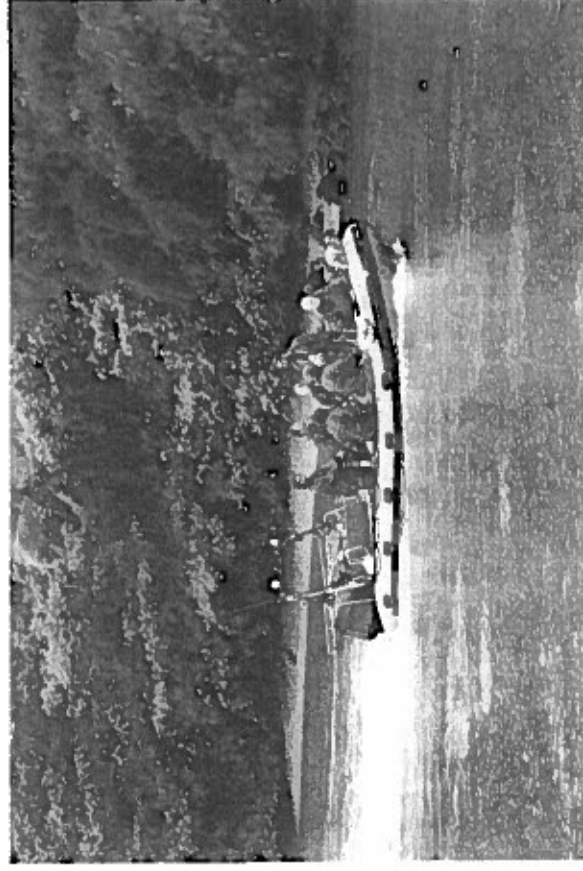
Rushforth, Robert  
 Officer

*[Signature]*

83  
 Badge No

SEPT 2, 2015 / 10:30 HRS  
 Date / Time

Photo# 18 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Report# 15-0238-KA

Classification: Commercial Use Permit  
Taken by: Robert Rushforth  
Equipment: Fujifilm X-L2 with 18mm - 55mm lens  
Photo Description: Vessel Kokua Kai (HA-1783-CP) offloading passengers onto unencumbered state land from Hanalei River

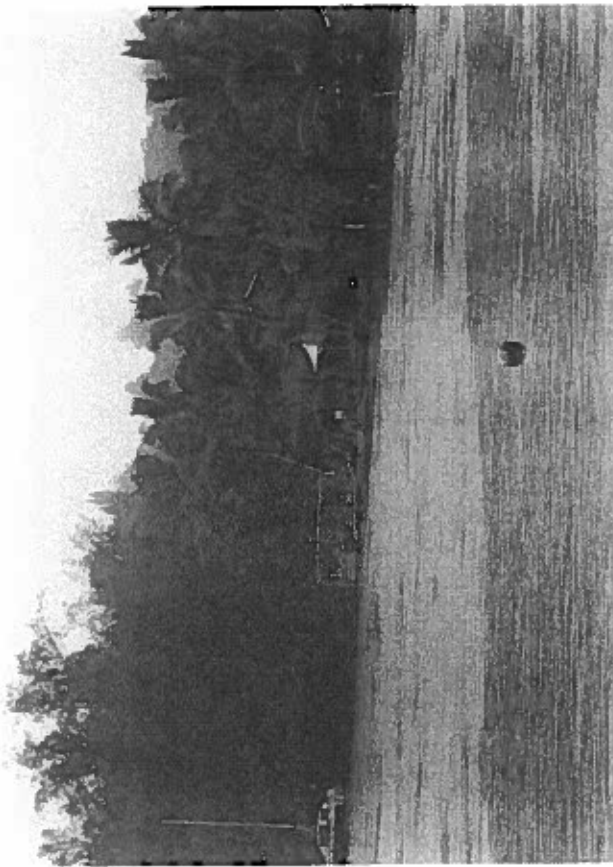
Date & Time Taken: July 22, 2015 / 1125 hrs

Rushforth, Robert  
Officer

83  
Badge No.

SEP 2, 2015 / 1030 hrs  
Date / Time

Photo# 19 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Report# 15-0238-KA

Classification: Commercial Use Permit  
Taken by: Robert Rushforth  
Equipment: Fujifilm X-L2 with 18mm - 55mm lens  
Photo Description: Rental cars (KBR345, KBR732) parked at Bali Hai Tours in the morning

Date & Time Taken: July 22, 2015 / 0923 hrs

Rushforth, Robert  
Officer

83  
Badge No.

SEP 2, 2015 / 1030 hrs  
Date / Time

Photo# 20 of 23



DOCARE  
PHOTOGRAPHIC REPORT

Classification: Commercial Use Permit  
 Taken by: Robert Rushforth  
 Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
 Photo Description: Rental vehicle parked at Bala Hai's base of operation in the morning

Date & Time Taken: July 29, 2015 / 0904 hrs  
 Date & Time Taken: July 29, 2015 / 1136 hrs  
 Photo Description: Vessel Kokua Kai (HA-1783-CP) entering Hanalei River from Hanalei Bay with five passengers, one crew member, one operator and a dog.

Rushforth, Robert  
 Officer  
 83  
 Badge No.  
 SEP 2, 2015 / 1030 HRS  
 Date / Time

Photo# 21 of 23



Photo# 22 of 23



DOCARE: Report# 15-0238-KA

PHOTOGRAPHIC REPORT

Classification: Commercial Use Permit  
Taken by: Robert Rushforth  
Equipment: Fujifilm X-E2 with 18mm - 55mm lens  
Photo Description: Vessel Kokua Kai (11A-1783-CP) offloading passengers onto unencumbered state land from Hanalei River

Date & Time Taken: July 29, 2015 / 1141 hrs

Rushforth, Robert  
Office  BG  
Badge No. Sept 2, 2015 / 1030 hrs  
Date / Time

Photo# 23 of 23

